

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

LAURA JOHNSON-PRICE,)
)
Plaintiff,)
)
v.)
)
DEPARTMENT OF)
HUMAN RESOURCES, et al.,)
)
Defendants.)

**CIVIL ACTION NO.:
2:07-CV-568-MHT**

**DEFENDANTS' MOTION TO DISMISS
FOR FAILURE TO STATE A CLAIM OR, IN THE ALTERNATIVE,
MOTION FOR A MORE DEFINITE STATEMENT**

COME NOW Defendants in the above-styled action and respectfully move this Court as follows:

1. Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, Defendants hereby move this Court to dismiss Plaintiff's Complaint for failure to state a claim. Plaintiff has failed to allege the basic elements of a claim against the Defendants as a matter of law.
2. Alternatively, Defendants move pursuant to Rule 12(e) of the Federal Rules of Civil Procedure for an Order from this Court requiring Plaintiff to provide a more definite statement as to the alleged claim against the Defendants.
3. In support of their Motion, the Defendants submit the brief filed contemporaneously herewith.

WHEREFORE, premises considered, Defendants respectfully request that the Court dismiss the Plaintiff's Complaint or alternatively, Defendants request that the Court require the Plaintiff to provide a more definite statement as to the claims against the Defendants.

Respectfully submitted,

/s/ Abigail H. Avery
Warren B. Lightfoot, Jr.
John B. Holmes, III
Abigail H. Avery
Attorneys for the Defendants
Department of Human Resources and
Dr. Page Walley, Commissioner

OF COUNSEL:

MAYNARD, COOPER & GALE, P.C.
2400 Regions/Harbert Plaza
1901 Sixth Avenue North
Birmingham, Alabama 35203-4604
Telephone: (205) 254-1000
Facsimile: (205) 254-1999
Email: wlightfoot@maynardcooper.com
jholmes@maynardcooper.com
aaavery@maynardcooper.com

Sharon E. Ficquette
DEPARTMENT OF HUMAN RESOURCES
Legal Office
P.O. Box 304000
Montgomery, Alabama 36130-4000
Telephone: (334) 242-9330

/s/ Alice Ann Byrne
Alice Ann Byrne
Attorney for the Defendants
State Personnel Department and
Jackie Graham, Director of State
Personnel Board

STATE PERSONNEL DEPARTMENT
Folsom Administrative Building
64 North Union Street ~ Suite 316
Montgomery, Alabama 36130
Telephone: (334) 242-3451
Facsimile: (334) 353-4481
Email: aliceann.byrne@personnel.alabama.gov

CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of August, 2007, a true and correct copy of the foregoing was electronically filed with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

For the Plaintiff:

Russell W. Adams, Esq.
Rocco Calamusa, Jr., Esq.
WIGGINS CHILDS QUINN & PANTAZIS, P.C.
The Kress Building
301 19th Street North
Birmingham, Alabama 35203-3204

/s/ Abigail H. Avery
Of Counsel